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in Opinion

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CONCORD, N.H.

Hon. James J. Barry, Commissioner
Department of Public Welfare
State House Annex
Concord, New Hampshire

Dear Sir:

I have carefully studied your letter of April 27, 1956, concerning personnel hired on a cooperative basis by the United States and the State.

It is my opinion that the matter ought to be submitted to the Personnel Commission for its determination whether the employees under consideration are at any time employees of The State of New Hampshire.

As you are aware, the Memorandum of Agreement between the United States Forest Service and the Forestry and Recreation Commission simply refers to these people as "the cooperative personnel;" neither the federal enabling act under which the program is carried out (16 USC s. 594 a) nor the State statute bearing upon the subject (RSA 223:1) sheds light upon the subject.

In my opinion it is highly important that some responsible State agency make the necessary determination in this regard, not only because of the subject with which you are interested, OASI, but also with regard to the far-reaching consequences of the Workman's Compensation Act as it applies to State employees should one of the persons under consideration be injured or killed. It is my belief that the Personnel Commission under the powers conferred upon it by RSA 9:8 has the authority and perhaps the duty to make the initial determination.

Very truly yours,

Warren E. Waters
Deputy Attorney General

WEW/sal